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NORTH DISTRICT OF CALIFORNIA

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Michael J. Aguirre, Esq., SBN 060402  
Maria C. Severson, Esq., SBN 173967  
AGUIRRE & SEVERSON, LLP  
501 West Broadway, Suite 1050  
San Diego, CA 92101  
Telephone: (619) 876-5364  
Facsimile: (619) 876-5368

Attorneys for Plaintiffs Alex Cannara  
And Gene A. Nelson in  
Case No. 3:19-cv-04171-JCS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
PACIFIC GAS AND ELECTRIC  
COMPANY,  
  
Defendant.

Case No. CR 14-00175-WHA

Related Case:  
Case No. 3:19-cv-04171-JCS

**PROOF OF SERVICE**

I, the undersigned, am employed in the county of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 501 West Broadway, Suite 1050, San Diego, CA, 92101.

On August 2, 2019, I caused to be served the following document(s):

**ADMINISTRATIVE MOTION PURSUANT TO CIVIL L.R. 7-11 AND  
PROPOSED ORDER TO CONSIDER WHETHER CASES SHOULD  
BE RELATED UNDER CIVIL L.R. 3-12; AND PROPOSED ORDER  
THEREON;**

**DECLARATION OF MICHAEL J. AGUIRRE IN SUPPORT OF  
ADMINISTRATIVE MOTION PURSUANT TO CIVIL L.R. 7-11 TO  
CONSIDER WHETHER CASES SHOULD BE RELATED UNDER  
CIVIL L.R. 3-12**

on the parties in this action as follows:

**PLEASE SEE ATTACHED SERVICE LIST**

1 ☐ BY MAIL - By placing a copy in a separate envelope, with postage  
2 fully prepaid, for each address named above and depositing each in the U.S.  
Mail at San Diego, California on August 2, 2019.

3 ☒ BY OVERNIGHT DELIVERY – I enclosed the documents in an  
4 envelope or package provided by an overnight delivery carrier and addressed  
to the persons at the addresses listed above. I placed the envelope or package  
5 for collection and overnight delivery at an office or a regularly utilized drop  
box of the overnight delivery carrier.

6 ☐ BY MESSENGER SERVICE – I served the documents by placing  
7 them in an envelope or package addressed to the persons at the addresses  
listed above and provided them to a professional messenger service for  
service. Please see attached Declaration/Proof of Service of messenger.

8 ☐ BY FAX TRANSMISSION – Based on an agreement of the parties to  
9 accept service by fax transmission, I faxed the documents to the persons at  
the fax numbers listed above. No error was reported by the fax machine that  
10 I used. A copy of the record of the fax transmission, which I printed out, is  
attached.

11 ☐ BY ELECTRONIC SERVICE – Based on an agreement of the parties  
12 to accept service by electronic transmission, I caused the documents to be  
sent to the persons at the electronic notification addresses listed above.  
13

14 I declare under penalty of perjury under the laws of the United States of  
15 America, that the above is true and correct.

16 Executed on August 2, 2019, at San Diego, California.

17 /s/Maria E. Byrnes  
18 Maria E. Byrnes  
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**SERVICE LIST**

***United States of America v. Pacific Gas and Electric Company,  
Case No. CR 14-00175-WHA***

Jeffrey Benjamin Schenk  
US Attorney's Office  
Northern District of California  
150 Almaden Boulevard, Suite 900  
San Jose, CA 95113  
*(Attorneys for United States of America)*

Hartley M.K. West  
Kobre & Kim  
150 California Street, 19th Floor  
San Francisco, CA 94111  
*(Attorneys for United States of America)*

Reid J. Schar  
JENNER & BLOCK LLP  
353 N. Clark Street  
Chicago, IL 60654-3456  
*(Attorneys for Defendants Pacific Gas And Electric Company)*

Kate Dyer  
CLARENCE DYER & COHEN LLP  
899 Ellis Street  
San Francisco, CA 94109-7807  
*(Attorneys for Defendants Pacific Gas And Electric Company)*

Kevin J. Orsini  
CRAVATH, SWAINE & MOORE LLP  
825 Eighth Avenue  
New York, NY 10019  
*(Attorneys for Defendants Pacific Gas And Electric Company)*

***Alex Cannara, et al., v. Karla Nemeth, et al.,  
Related Case No. 3:19-cv-04171-JCS***

Gabrielle D. Boutin  
Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
Sacramento, CA 94244-2550  
*(Attorneys for Defendants California Department of Water Resources, California  
Department of Finance, California Department of Water Resources Director Karla  
Nemeth, California Department of Finance Director Keely Bosler, California State  
Controller Betty Yee, California State Treasurer Fiona Ma)*

Christine Hammond  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
*(Attorneys for California Public Utilities Commission, California Public Utilities  
Commission President Marybel Batjer; California Public Utilities Commissioner*

1 *Liane Randolph; California Public Utilities Commissioner Martha Guzman*  
2 *Aceves; California Public Utilities Commissioner Clifford Rechtschaffen;*  
*California Public Utilities Commissioner Genevieve Shiroma)*

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1 Maria C. Severson, Esq., SBN 173967  
2 Michael J. Aguirre, Esq., SBN 060402  
3 AGUIRRE & SEVERSON, LLP  
4 501 West Broadway, Suite 1050  
5 San Diego, CA 92101  
6 Telephone: (619) 876-5364  
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8 Attorneys for Plaintiffs Alex Cannara  
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11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 PACIFIC GAS AND ELECTRIC  
18 COMPANY,

19 Defendant.

Case No. CR 14-00175 WHA

**Related Case:**

Case No. 3:19-cv-04171-JCS

**ADMINISTRATIVE MOTION  
PURSUANT TO CIVIL L.R. 7-11 AND  
PROPOSED ORDER TO CONSIDER  
WHETHER CASES SHOULD BE  
RELATED UNDER CIVIL L.R. 3-12;  
AND PROPOSED ORDER THEREON**

Pursuant to Civil Local Rules (“Civil L.R.”) 3-12 and 7-11, Plaintiffs in *Cannara, et al. v. Nemeth, et al.*, Case No. 3:19-cv-04171, filed on July 19, 2019 and pending before the United States District Court for the Northern District of California, hereby submit the instant Administrative Motion to Consider Whether Cases Should Be Related.

As set forth below, both *Cannara, et al. v. Nemeth, et al.* (“Related Case”) and *United States v. Pacific Gas & Elec. Co.* share a common factual background with which this Court is well-familiar: years of safety-related misconduct by investor-owned electric utility, Pacific Gas & Electric Company.

**I. Applicable Standard Under Criminal L.R. 8-1 and Civil L.R. 3-12**

Civil L.R. 3-12(a) explains an action is “related to another when: (1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.”

Civil L.R. 3-12(b) explains when a “party knows or learns that an action, filed in or removed to this district is (or the party believes that the action may be) related to an action which is or was pending in this District as defined in Civil L.R. 3-12(a), the party must promptly file [this motion] in the lowest-numbered case... pursuant to Civil L.R. 7-11.”

Criminal L.R. 8-1 expressly contemplates instances where a civil and criminal matter may be related by its language: “any pending criminal action is related to another civil or criminal action...” As discussed herein, the civil case and the pending criminal probation both deal with Pacific Gas & Electric Company’s conduct – one in a criminal proceeding, and one in a civil action.

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**II. *Cannara et al. v. Nemeth et al.* is Related to the Probation Imposed Upon the Defendant in *United States v. Pacific Gas & Electric Company* Because the Cases Share Substantially the Same Factual Background; One Judge Hearing Both Cases Would Promote Judicial Economy**

Both actions call for the determination of substantially related questions of fact, spanning years of unlawful conduct by Pacific Gas & Electric Company (PG&E) which led to its criminal probation as overseen by this Court. The course of conduct attributed to PG&E in *Cannara et al. v. Nemeth et al.*, which underscores that case's various claims of relief, may inform this Court's disposition of PG&E's probation.

Indeed, PG&E's continuing pattern of unlawful conduct has caused this Court to issue a request for PG&E to supply information, including "a fresh, forthright statement owning up to the true extent" of investigatory news publications showing PG&E's repeated failure to engage in proactive safety practices, as detailed in "the Wall Street Journal report." (See *United States v. Pacific Gas & Elec. Co.*, Case No. CR 14-00175 WHA, Doc. 1075, p. 1:25-26, Request for Offender PG&E to Supply Information). This Court also asked for a similar statement addressing an ABC News revelation that "PG&E has made campaign contributions to political candidates, even quite recently. The offender... shall explain why those campaign contributions were more important than replacing or repairing the aging transmission lines described by the Wall Street Journal article..." (Doc. 1075, p. 2:2-7).

The related civil case alleges PG&E solicited and is set to receive an unlawful gift of public funds from the State of California through a bill passed after a substantial and pervasive campaign by PG&E to gain influence over the Legislature, as exposed by the very same ABC News revelation cited by this Court's July 10, 2019 request to PG&E. (See Complaint in Related Case, attached as Exhibit 1 to Declaration of Michael J. Aguirre, filed concurrently herewith, pp. 50:6-28, 51:1-22); (Doc. 1075, p. 2:1-9).



1 The now-passed bill, Assembly Bill (AB) 1054, will perpetually relieve  
 2 PG&E from the consequences of its wildfire safety violations by passing them onto  
 3 utility customers, violating their constitutional right to be free from unjust and  
 4 unreasonable rates. (Aguirre Decl., Ex. 1, 42:13-28, 43-44, 45:1-14). AB 1054  
 5 does so by setting up a fund through which the State of California will provide a  
 6 potentially limitless amount of taxpayer and utility customer funds, \$10.5 billion at  
 7 a time, to subsidize uninsured wildfire liabilities incurred by PG&E and its fellow  
 8 investor-owned electric utilities (IOU). (Aguirre Decl., Ex. 1, p. 31:5-24).

9 PG&E ensured the passage of such a favorable law by spending millions  
 10 upon millions to curry favor with the California Legislature. (Aguirre Decl., Ex. 1,  
 11 pp. 32-37). The corporation's campaign contributions during the 2018 election  
 12 cycle – \$550,000 to sitting legislators, \$1.32 million to state-level and local  
 13 Democratic and Republican parties of California, and \$208,400 to Governor Gavin  
 14 Newsom, followed by an intense lobbying campaign totaling \$10 million in 2018  
 15 alone – were used to induce those politicians to pass Assembly Bill (AB) 1054.  
 16 (Aguirre Decl., Ex. 1, pp. 33-37; Ex. 2; Ex. 3, pg. 2). An ABC 10 investigative  
 17 report revealed PG&E in fact “spent almost \$12 million lobbying the state  
 18 government and another \$14 million lobbying Congress in Washington, D.C.”  
 19 (Aguirre Decl., Ex. 4, embedded video “Fire – Power – Money, Ep. 3 of 3,”  
 20 timestamp 00:14:12 to 00:14:40).

21 In short, *Cannara et al. v. Nemeth et al.* seeks to demonstrate how PG&E and  
 22 its fellow IOUs convinced the Legislature to pass on responsibility for wildfire  
 23 costs from the blameworthy utilities to the blameless people of California. PG&E  
 24 could, and should have, instead used such costs and employee time to examine and  
 25 conduct critical maintenance on its transmission lines the July 12, 2019, article by  
 26 the *Wall Street Journal* revealed PG&E knew was needed.

27 Facts that may be brought out in both matters include PG&E's admission by  
 28 its letter to the California Public Utilities Commission (CPUC) Safety and



1 Enforcement Division dated July 3, 2019, that the utility has not met its  
 2 maintenance targets as established in its own wildfire mitigation plan. (Aguirre  
 3 Decl., Ex. 5). Additional evidence may involve a December 14, 2018, California  
 4 Public Utilities Commission announcement of its investigation into whether  
 5 PG&E's natural gas maintenance records were in fact *falsified*. (Aguirre Decl., Ex.  
 6 6).

7 Considerations of judicial economy and administration of justice weigh  
 8 strongly in favor of assigning the cases to the same district judge. Because both  
 9 cases are rooted in PG&E's history of unlawful conduct and its activities before the  
 10 California Legislature – a set of circumstances intertwined with this Court's  
 11 already-pending case in which PG&E is a defendant – there would be substantial  
 12 duplication of labor if the cases were heard by different judges.

13 Indeed, Plaintiffs in *Cannara et al. v. Nemeth et al.* have alleged a pattern of  
 14 behavior by PG&E aimed at avoiding the consequences of its repeated violations of  
 15 state fire safety standards instead of recognizing its duty to ensure, as this Court  
 16 expressed in its January 9, 2019, Order to Show Cause to PG&E, that “safety must  
 17 come first. *Only* safe operation will be allowed.” (Aguirre Decl., Ex. 1, pp. 32-38, ¶  
 18 32 ) (See *United States v. Pacific Gas & Elec. Co.*, Case No. CR 14-00175 WHA,  
 19 Doc. 961, p. 2:13-14, Order to Show Cause Why PG&E's Conditions of Probation  
 20 Should Not Be Modified).

21 In summary, both the related civil lawsuit and the instant criminal action  
 22 involve a substantially overlapping set of facts which are determinative to the  
 23 disposition of both cases.

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**CONCLUSION**

Based on the foregoing, Plaintiffs in *Cannara, et al. v. Nemeth, et al.*, Case No. 3:19-cv-04171 respectfully submit that the actions listed above qualify as related cases and therefore request that they be transferred to the lowest numbered case District Court Judge.

AGUIRRE & SEVERSON, LLP

Dated: August 2, 2019

/s/Maria C. Severson  
Maria C. Severson, Esq.,  
Attorneys for Plaintiffs Alex Cannara  
and Gene A. Nelson in  
Case No. 3:19-cv-04171-JCS

**PROPOSED ORDER**

After having considered the Administrative Motion to Consider Whether Cases Should Be Related (Civil L.R. 3-12), filed on July 30, 2019 by the Plaintiffs of Case No. 3:19-cv-04171, the Court finds that:

\_\_\_ *Cannara et al. v. Nemeth et al.* (Case No. 3:19-cv-04171) and the earlier-filed *United States of America v. Pacific Gas & Electric Company* (Case No. CR 14-00175 WHA) are related.

\_\_\_ *Cannara et al. v. Nemeth et al.* (Case No. 3:19-cv-04171) and the earlier-filed *United States of America v. Pacific Gas & Electric Company* (Case No. CR 14-00175 WHA) are not related.

IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
HON. WILLIAM H. ALSUP  
UNITED STATES DISTRICT JUDGE